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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services	)	CC Docket No. 95-20
	)	
	)	DOCKET FILE COPY ORIGINAL

REPLY COMMENTS OF AMERITECH

I. INTRODUCTION

Ameritech respectfully submits these Reply Comments in the above-captioned matter in response to a time-worn set of arguments raised by various parties who, in their Comments, again seek to advance or cement their competitive positions by advocating the reimposition upon the Regional Bell Operating Companies ("RBOCs") of an artificial competitive handicap that has been lifted repeatedly by the Commission during its nearly thirty years of mulling the issues at hand. At this point, it must be admitted that the record is clear, and complete: structural separation is a solution in search of a problem, where none exists.

Predictably, the most active participants in earlier stages of this proceeding have once again dusted off the same tired rhetoric to justify openly handicapping the RBOCs as a class. Just as predictably, this rhetoric continues to be unsupported by fact, aged beyond its usefulness, or obviously irrelevant to the matters at hand in this proceeding. No case can be made from these materials that any pattern of wrongdoing has occurred during the years in which

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nonstructural measures have been employed. Ironically, many of the stories of alleged abuse serve only to demonstrate the inherent effectiveness of the Commission's chosen nonstructural approach.

As the record shows, "one-stop shopping" is precisely what customers want in today's service- and feature-rich telecommunications environment. Many of those who now ask the Commission to withdraw this capability from the RBOCs' customers are the very players who offer it themselves to the very same customers. These parties offer no answer as to how the interests of customers would be served by arbitrarily removing one class of effective competitors from the enhanced services marketplace. This proposition simply makes no sense.

Nor can it be earnestly argued that customers would benefit from the planning uncertainty and service introduction delays which would result from a permanent return to a structural separation regime. Already, the product planning efforts of the RBOCs are hamstrung and confounded by concerns about whether a service can be technically and economically structured to meet the Commission's interim requirement of service-specific CEI plans.[1] To further extend this period of business uncertainty by stepping backwards to structural separation would further delay and discourage service innovation, rather than advancing the U.S. marketplace toward the Commission's long-held goals of accelerating the consumer benefits of new telecommunications services.

The record in this proceeding shows that the Commission has been correct in its adoption of a set of non-structural safeguards. No credible evidence has been presented to support any other decision in this matter.

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[1] In the Matter of Bell Operating Companies' Joint Petition for Waiver of Computer II Rules, Memorandum Opinion and Order, DA-95-36 (Common Carrier Bureau, released January 11, 1995) ("Interim Waiver Order"), at 15-19 (¶¶ 25-31).

II. NO EVIDENCE OF SIGNIFICANT ABUSE EXISTS

Despite their significant physical weight, the Comments of parties who urge the Commission to reimpose a structural separation requirement on RBOC provision of enhanced services fail to adduce any substantive evidence that significant abuses have materialized to date. The material provided generally fails to support any such conclusion for one of three reasons. These reasons include lack of factual support, reuse of the previous record upon which the Commission had previously decided to implement a non-structural safeguards approach, and simple irrelevance of the facts presented to the issues at hand.

The absence of factual support for the "parade of horrors" which the opponents of the Commission's non-structural approach attempt to present is exemplified by the bald assertion of Prodigy that the lack of access-related FCC complaints "should be attributed [in part]to the jurisdictionally intrastate nature of most access disputes".[2] LDDS excuses the lack of real evidence by solemnly stating that "discrimination is a silent killer".[3]

The fact is that the record has not been substantially augmented in this regard, simply because no substantial evidence of abuse exists. The non-structural approach has worked exactly as intended to prevent abuse.

This lack of evidence is dealt with by some parties simply by recycling evidence already on the massive FCC record. The best example of this tactic is provided by MCI, which bundles up over 600 pages of materials previously considered and rejected in an earlier stage of this proceeding, admonishing sternly that the Commission "should not ignore this material again."[4]

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[2] Comments of Prodigy, at 3. This hand-waving explanation cannot, of course, begin to explain away the lack of state-level complaints.

[3] Comments of LDDS, at 30-31.

[4] Comments of MCI, at 31. MCI also recycled (as "Exhibit A") portions of a brief which it had filed earlier in the Ninth Circuit Court of Appeals, promising to bring still more duplicative materials in an ex parte submission Id., at 30.

Some opponents of the existing non-structural regime attempt to paint the RBOCs as "bad actors" in general, adding mostly irrelevant materials that go so far afield as, for example, the structure of the nascent Video Dialtone marketplace[5], various RBOC procurement arrangements, inside wiring accounting[6], the"value of the Bell Company name",[7] and possible future: "inter" LATA relief for the RBOCs.[8] Apart from the singular "Georgia MemoryCall" case[9] (which itself has already been argued for years in the 9th Circuit as well as in the instant proceeding), not much of this material is even arguably relevant to the Commission's consideration of how best to continue the vibrant growth of the enhanced services marketplace.

Ironically, these general allegations of misconduct actually stand for the proposition that safeguards and the complaint process are in fact effective; these instances were, after all, brought to light. Indeed, many of the RBOCs' competitors are large, sophisticated enterprises who clearly have little hesitancy about using all available safeguards and complaint mechanisms to protest and appeal to the courts what they perceive to be unfair or discriminatory practices.

III. INTEGRATED MARKETING BY THE RBOCS SATISFIES CRITICAL CUSTOMER NEEDS

Opponents of the non-structural approach conveniently ignore the customer benefits of integrated marketing by the RBOCs.[10] This myopic view

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[5] Comments of California Cable Television Association, at 6-19; Comments of NTCA, at 3, 6-9, Comments of Commercial Internet Exchange Association, at 10-11
[6] Comments of ITAA), at 4
[7] Comments of ATSI, at 9-10
[8] Comments of LDDS, at 2-4, 13.
[9] Comments of MCI, at iv, 9,18,27-30; Comments of ITAA, at 17-18.
[10] Some parties even deny any knowledge that such benefits exist; see, e.g., Comments of MCI, at 15. As the Commission itself has noted, one-stop shopping capabilities enable providers to increase consumers' knowledge about enhanced services, to permit contact personnel to respond more efficiently and knowledgeably to customer inquiries and suggest additional service choices that better meet communications needs, and to provide both basic and enhanced services more efficiently. In the Matter of Computer III Remand Proceedings: Bell

overlooks a substantial customer cost of separation; namely, the cost of business and regulatory uncertainty in the planning and implementation of new services. A significant penalty is levied directly upon consumers as a result of this uncertainty, in the form of delay and confusion in the introduction of services by the RBOCs.

As a natural consequence of separation, a new series of structural, functional, documentation, and accounting rules would quickly become entangled in all phases of the service planning and development process, impairing the ability of the RBOCs to respond in a timely and effective way to customer needs. While other large, well-funded providers[11] enter the expanding enhanced services marketplace with few regulatory constraints, with the ability to quickly roll out a range of new services on a single integrated platform -- and at a single packaged price -- the RBOCs would be burdened at every critical phase of the planning process with factoring in and interpreting the melange of new safeguards and rules in terms of their business and financial impacts. Investment risks, timing of multiple regulatory requirements, resource commitments, contingency plans, filing preparation and defense, potential legal proceedings (likely instituted for strategic reasons), and a multitude of other considerations all demand timely and accurate analyses and responses during the planning process.

In such a process, an RBOC could seldom assure any potential subscriber when or whether it might actually be permitted to offer a particular service. The resulting delay and uncertainty would doubtless cause potential customers to

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Operating Company Safeguards and Tier 1 Local Exchange Company Safeguards, CC Docket No. 90-623, Report and Order, released December 20, 1991, at ¶85.

[11] As the Court noted in removing the Information Services restriction that had been imposed upon the divested RBOCs by the MFJ, such competitors include GE, AT&T, IBM, Sears, Merrill-Lynch, American Express, Citicorp, Chase Manhattan, and "a variety of foreign and independent telephone companies ... ." U.S. v. Western Electric Company, 993 F.2d 1572, 1581-2 (D.C. Cir. 1993).

turn to less economic or suitable, but nevertheless available, alternatives. Surely, this fact is not lost on MCI and the other opponents of the Commission's non-structural approach.

The RBOCs' enhanced service competitors also know full well that customers highly value the ability to acquire all their telecommunications service needs from a single source, on a bundled and discounted basis. That much is more than clear in the region served by Ameritech, where AT&T,[12] MCI, Teleport, MFS, Time Warner, and U.S. Signal have all requested or been granted state certification to provide local exchange service.

Experience has demonstrated that the ability of one competitor to offer one-stop shopping capability to customers can have immediate and dramatic impact upon the dynamics of the marketplace. Ameritech has confirmed this strong consumer preference through a variety of customer surveys[13] which show that a one-stop capability is highly valued because -- as one would expect -- it is known to be more convenient, less time consuming, simplifies ordering and service, and provides a single channel for repair and administrative information. Thus, as the loss of one-stop capabilities would represent a significant and immediate cost to RBOC customers, it must be acknowledged as a serious competitive handicap vis-a-vis Ameritech's competitors, as they continue to line up almost daily to compete head-on for local exchange business.[14]

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[12] See comments of AT&T, at 2 for a discussion of AT&T's objectives in this regard.

[13] Surveys performed for Ameritech by <u>Quality Strategies</u> in the areas of (1) combined inter- and intraLATA toll services and (2) high capacity (DS-1 equivalent) data service were provided to the Commission in the context of the Customers First proceeding. <u>In the Matter of a Petition for a Declaratory Ruling and Related Waivers to Establish a New Regulatory Model for the Ameritech Region</u>, <u>Supplemental Materials</u> (filed April 16, 1993), Attachment 1 of 4, Volume 2, Appendix H ("High Capacity Services Share"); <u>Reply Comments of Ameritech,</u> DA 93-481 (filed July 12, 1993), Attachment C ("IntraLATA Toll Revenues").

[14] It is also known throughout the industry that AT&T itself recently bid for and won one of the two Chicago MTA licenses to provide Personal Communications Service ("PCS"), over $30.00 per population in the service area. The prices paid for the two Chicago licenses were the highest prices paid for any PCS license in the United States. AT&T's recent acquisition of McCaw

IV. CONCLUSION

For the reasons stated above, the Commission should act expeditiously to return to its non-structural safeguards regime, remove the interim requirement for approval of service-specific CEI Plans for new enhanced services, and consider ways in which it can readjust or withdraw the remaining non-structural safeguards to permit the natural forces of competition to supplant artificial regulatory "handicapping" of the RBOCs -- and hence their customers -- in the thriving enhanced services marketplace.

Respectfully submitted,

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Dated: May 19, 1995

Cellular (acknowledged as the largest cellular service provider in the world) was also well-chronicled in the press. It would be nothing short of astounding if no AT&T combined-service offerings were forthcoming.

CERTIFICATE OF SERVICE

I, Karen A. Turner do hereby certify that a copy of the foregoing Reply of Ameritech has been served on the parties listed below, by first class mail, postage prepaid, on this 19th day of May 1995.

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